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**U.S. Citizenship
and Immigration
Services**



L2

FILE: [Redacted] Office: Los Angeles

Date: JUN 21 2004

IN RE: Applicant: [Redacted]

PETITION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Los Angeles, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The district director denied the application because the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal, the applicant submits a separate statement in which he attempted to account for his inability to obtain and provide contemporaneous evidence of continuous residence since January 1, 1982.

An applicant for permanent resident status must establish entry into the United States before January 1, 1982 and continuous residence in the United States in an unlawful status since such date and through May 4, 1988. 8 C.F.R. § 245a.11(b).

An applicant for permanent resident status under section 1104 of the LIFE Act has the burden to establish by a *preponderance of the evidence* that he or she has resided in the United States for the requisite periods, is admissible to the United States and is otherwise eligible for adjustment of status under this section. 8 C.F.R. § 245a.12(e). When something is to be established by a preponderance of evidence it is sufficient that the proof only establish that it is probably true. See *Matter of E-- M--*, 20 I&N Dec. 77 (Comm. 1989).

The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. 8 C.F.R. § 245a.12(e).

In an attempt to establish continuous unlawful residence since before January 1, 1982, as claimed, the applicant furnished the following evidence:

- An form affidavit from [REDACTED] who attested to the applicant having continuously resided in the U.S. since January 1981;
- An affidavit from [REDACTED], the applicant's brother, attesting to the applicant having lived with him at his place of residence in Stanton, California, from January 1, 1981 to June 30, 1984;
- A handwritten affidavit from [REDACTED] the applicant's sister-in-law, attesting to the applicant having resided at her residence in Stanton, California, since January 1, 1981. The applicant bases her knowledge on the applicant having resided with her and her spouse;
- A form affidavit from [REDACTED] attesting to the applicant having resided in Stanton, California, from July 1984 to August 10, 1986. The affiant bases his knowledge on the applicant having resided at his domicile and having been a co-worker and close friend of his;

- An employment affidavit from Jon Dale Yarchever, attesting to the applicant having been employed as a foreman and driver in the affiant's roof maintenance business from August 15, 1986 to May 22, 1990;
- An I-20A-B Certificate of Eligibility for Nonimmigrant (F-1) Student Status For Academic and Language Students pertaining to the applicant. The completed form was signed by the Designated School Official (DSO) for the Garden Grove Unified School District, [REDACTED] on December 2, 1983. Once completed, such forms would have been forwarded to the Immigration and Naturalization Service or the Service (now, Citizenship and Immigration Services or CIS) for authorization of the student's attendance in that school district. However, CIS administrative and computer records fail to show that the I-20 was ever approved or that the Service ever authorized the applicant to attend school in that district;
- Award certificates from [REDACTED] for the year 1984; and
- Photocopied academic transcripts pertaining to the applicant from the Garden Grove Unified School District attesting to the applicant having completed coursework for grades 8 and 9, respectively, during the school years ending June 1983 and June 1984.

The applicant, on appeal, submits a separate statement in which he asserts that in 1981, when he entered the U.S., he was only 12 years of age and until 1984, lived with his older brother and sister-in-law. As a result, the applicant states that he is unable to submit records such as earnings records, pay stubs, utility bills or rent receipts. Under these circumstances, the applicant's inability to submit additional contemporaneous documentation of residence is not found unduly implausible. The regulations at 8 C.F.R. § 245a.2(d) provide a list of documents that may establish residence and specify that "any other relevant document" may be submitted.

In this instance, the applicant submitted at least seven affidavits attesting to his residence and employment in the U.S. during the period in question. The director has not established that the information in the affidavits was inconsistent with the claims made on the application, or that it was false information. Furthermore, affidavits in certain cases can effectively meet the preponderance of evidence standard. As stated on *Matter of E--M--*, *supra*, when something is to be established by a preponderance of evidence, the applicant only has to establish that the proof is probably true. That decision also points out that, under the preponderance of evidence standard, an application may be granted even though some doubt remains regarding the evidence. The documents that have been furnished, including affidavits submitted by persons many of whom are willing to testify in this matter, may be accorded substantial evidentiary weight and are sufficient to meet the applicant's burden of proof of residence in the United States for the requisite period.

It should also be noted that, unlike the vast majority of legalization applicants in the original legalization program and now in the LIFE program, the applicant has also provided contemporaneous evidence of his residence in the form of official school transcripts and award certificates attesting to his school attendance during a portion of the chronological period in question.

The affidavits provided by the applicant, along with the academic records and transcripts which accompany them, support by a preponderance of the evidence that the applicant satisfies the statutory and regulatory criteria of

entry into the United States before January 1, 1982, as well as continuous unlawful residence in the country during the ensuing time frame of January 1, 1982 through May 4, 1988, as required for eligibility for legalization under section 1104(c)(2)(B)(i) of the LIFE Act.

Accordingly, the applicant's appeal will be sustained. The district director shall continue the adjudication of the application for permanent resident status.

ORDER: The appeal is sustained.